



States Need Quick Passage of Transportation Bill

Reauthorization of the federal-aid highway and transit programs

is major unfinished business before the 109th Congress that is costing jobs, delaying safety improvements and impacting state transportation programs.

The six-year federal law authorizing federal highway and transit programs—the Transportation Equity Act for the 21st Century—expired September 30, 2003. Federal aid has been continued through an unprecedented series of six short-term extensions. The latest is to expire May 31, 2005.

The cost of delay is substantial – as states slow down their construction programs, defer planning on major projects and are forced to divert state funds to shore up projects eligible for federal aid. The price tag for projects increases as costs climb and purchasing power erodes.

States are urging that the reauthorization bill be:

Introduced in **January,**

Marked up and passed in **February,**

On the conference table by **March,** and

On the President's desk by **April.**

Consequences of Delay

State contract awards for the 2005 spring and summer construction season go out to bid starting in March. If states don't know what federal funding they may receive, that uncertainty will force states to delay putting some projects out to bid. An estimated 90,000 jobs are at stake nationwide. The problem is particularly serious for northern-tier states, with their shorter construction seasons.

In multiple states, transportation departments have advanced state funding to launch projects eligible for federal-aid, in anticipation of action by Congress to increase federal funding levels. Without a new bill, states are holding the bag until Congress acts. In addition, 12 states acted to accelerate delivery of transportation projects through the use of GARVEE bonds, where repayment is based on the expectation of federal funding. States must use their own funds to make payments until such time as the federal bill is passed.

Based on a survey of states a year ago, AASHTO warned that up to \$2.1 billion might be lost due to project delays unless Congress took action on reauthorization. The December, 2004 *McGraw-Hill Construction Report* stated that, year to date, highway and bridge construction starts were down 5 percent, which may have confirmed that fear.

Three Reasons Quick Action on Reauthorization May Prove Possible:

The 2004 Senate and House reauthorization bills, which both passed by overwhelming majorities, reflect growing consensus on the range of funding levels feasible and the policy matters which need to be addressed. Each can be reintroduced and moved swiftly through their respective chambers with minimal change, so a House/Senate Conference Committee can resume its work at reconciling the differences which do exist.

Action taken in 2004 by the last Congress on ethanol and fuel tax evasion increased highway trust fund revenues by an estimated \$24 billion for the six year life of the reauthorization bill. That brings us closer to meeting the bill's funding goals.

Voters in the November, 2004 elections signaled strong support for transportation. 42 of the 55 ballot measures funding highways and transit passed, many by margins of over 67 percent, and one by 84 percent.

State Fiscal Recovery Needs Boost of Federal Highway and Transit Aid

States are beginning to recover from the worst fiscal picture in decades. The National Association of State Budget Officers reports that state capital spending on transportation was up

5.9 percent in 2004, compared to a decrease of 1.5 percent in 2003. The delay in federal aid could be a serious drag on further recovery in 2005, slowing job creation. Passage of a well-funded, six year bill will give states the resources and the certainty they need to commit to long-term investments.

The Transportation Investment Gap

In 2003, \$32 billion in federal assistance was joined by \$38 billion from the state and local level for a highway capital investment total of \$70 billion. That year U.S. DOT published its Conditions and Performance Report which stated that \$107 billion is the level required to fund the highway system improvements needed. While transit capital investment reached approximately \$10 billion in 2003, the U.S. DOT forecast that \$20.6 billion annually is required to fund the transit system improvements needed.

While we believe U.S. DOT's report fairly assesses the investment needed, the funding levels proposed by Congress and supported by AASHTO are conservative—but realistic.

AASHTO supports increasing annual federal highway

investment to at least \$45 billion by 2009, and annual federal transit investment to at least \$11 billion by 2009. When the Senate was able to pass a \$318 billion six-year bill, AASHTO expressed its support. We continue to support the efforts of the House and Senate to pass legislation funded at levels which achieve our funding goals.

In the months ahead, transportation investment will be competing with other domestic priorities as well as deficit-reduction efforts. It's important to bear in mind:

- Since the creation of the Highway Trust Fund in 1956, highway users have paid in advance for transportation investments. The firewalls and guarantees enacted in TEA-21 ensured that these user fees would be fully used, and used only for transportation.
- Transportation investment is essential to economic growth, not only in terms of job creation, but in terms of the benefits to every sector of the nation's economy. Today's prosperity was built upon the investment in the Interstate system. Without increasing investment, the nation's businesses will lose the economic edge they now hold in global competition.
- States cannot hope to deal with the projected onslaught of freight traffic (up 70 percent by 2020), increased demands for travel (up 44 percent), and the need to revamp our aging highway system, without increased federal investment.

"A short-term extension is like a temporary job," explained Bill Buff, of the American Highway Users Alliance. "You manage to pay the rent and buy the groceries, but you're not going to start making any major home improvements."
Gannett News Service

"All of the federal transportation programs remain in limbo," said Genevieve Giuliano, director of the National Center for Metropolitan Transportation Research at the University of Southern California. "There is no ability to plan beyond the time of the current extension."
San Diego Union-Tribune

States Cite Impacts

AASHTO's 2004 report *The Pavement Ends* includes the following comments from state transportation departments on the impacts of delay in federal highway and transit reauthorization:

Indiana

"If TEA-21 is extended for one year at flatline levels, Indiana would have a negative impact of \$125 million."

California

"A six-month extension would cause the state to focus its efforts on meeting existing commitments and reduce the number of projects that are advertised and awarded."

Montana

"Anything less than a six-year bill would clearly create risk for the future funding plan for eight major reconstruction projects worth \$125 million."

Nevada

"A one-year extension ... would affect future projects scheduled for 2005."

North Dakota

"We are developing a bridge replacement that could cost approximately \$50 million and take three years to build. We will not advance this major project without some clear projection of funds. The same is true of a 100-mile corridor project."

Two high-profile Twin Cities freeway projects are being delayed because of less-than-expected federal funding, a development that means at least an extra year of traffic headaches for motorists in key bottlenecks along Interstate Hwys. 494 and 35E. State Department of Transportation (MnDOT) officials are blaming the setbacks on inaction by Congress. . .

Minneapolis Star-Tribune

Michigan is still struggling with a tight state budget and uncertainty about how much federal money it will receive for next summer's road work. "The prognosis for transportation funding is flat at best for 2005," said Gary Naeyaert, a spokesman for the Michigan Road Builders Association. "In Michigan we're probably going to be on a downward spiral because Congress won't get it done in time for the 2005 construction season." *Ann Arbor News*

Georgia

"Design activities on future projects would be delayed, including environmental activities that would have to be redone."

Nebraska

"Short-term extensions are extremely disruptive. Projects get delayed further adding to their ultimate costs. Contractors, suppliers, and engineering consultants are negatively impacted."

Build on the Progress to Date

Much progress has been made in advancing key policy considerations through provisions included in the House or Senate reauthorization bills passed last year, which can serve as a solid framework for swift action by the 109th Congress.

Those provisions will:

Provide Long-Term Stable and Secure Funding and Expand Financing Options

The proposed legislation would maintain the critical firewalls and funding guarantees, including general fund guarantees for transit, that ensure that transportation funds are fully used for transportation improvements. The Revenue Aligned Budget Authority mechanism has been maintained and refined to improve accuracy of projections.

Important steps are proposed to expand state options for financing transportation improvements including expansion of State Infrastructure Banks (SIBS) to all states, continuation of the TIFIA program, and broadening eligibility, creation of Interstate Tolling Pilot Projects and authorization of Private Activity Bonds.

Looking to the future of the federal-aid program, draft legislation would establish a National Commission to assess future financing options.

However, AASHTO opposes a new provision that repeals the authority to toll indefinitely on existing highway lanes and replaces it with tolls allowed only on voluntary use lanes, with revenues dedicated solely to new highway capacity.

Streamline the Project Development Process

The proposed legislation addresses the need to accelerate project delivery. Provisions that designate U.S. DOT as the lead agency for determining a project's purpose and need and for defining range and scope of alternatives will clarify roles and responsibilities under the NEPA process.

Further streamlining is possible with provisions to permit delegation of U.S. DOT NEPA responsibilities to the states for certain projects, and a 90-day statute of limitations on legal claims against NEPA decisions, which is consistent with similar limitations for challenges under NEPA for other non-highway projects.

AASHTO believes that further streamlining would be possible with the addition of a provision to permit the results of the transportation planning process to have standing for purposes of NEPA or other environmental reviews

Key provisions included in the bills to address Section 4(f) requirements are essential in order to expedite and streamline project development. These provisions allow the U.S. Secretary of Transportation to make a finding of "de minimis" impact if a transportation project does not have an adverse effect upon a 4(f)-protected resource – parks and recreation areas, waterfowl and wildlife refuges, and historic sites.

The proposed legislation aligns state transportation and state air quality planning, by including 4-year planning and conformity updates, and 10-year planning horizons for conformity analysis, and eliminates the need for conformity analysis after the end of the maintenance period.

Enhance the Effectiveness of Safety Programs to Reduce Fatalities

Reducing accidents and saving lives is a top priority in the proposed legislation. Provisions require the states to have a comprehensive highway safety plan consistent with their long-range transportation planning processes.

Further provisions enhance the ability of states to tailor programs to address their unique safety needs, including the consolidation of existing NHTSA safety grant programs into a single, flexible Section 402 highway safety program and the elimination of prohibitions against federal, state and local officials proactively supporting new state and local safety statutes.

Additional progress in safety will come from a state-managed program to develop modern, technologically advanced safety information management system software.

Continue Support for Operations

The proposed legislation continues support for ITS (Intelligent Transportation Systems) and other aids to advance efficient management and operations of highway systems. The proposed legislation provides for a state ITS deployment program funded from existing core highway programs and provides eligibility of operations-oriented activities.

In order to maintain comparable support for national ITS deployment initiatives, such as the 511 Traveler Information Initiative and CVISN, AASHTO urges Congress to maintain a national discretionary deployment program and a robust ITS research program that will ensure sustained technical advancement.

Support Growth in Research

The proposed legislation maintains a strong commitment to research with growth in funding for national research under the U.S. Federal Highway Administration and for key programs such as the Future Strategic Highway Research Program, Long Term Pavement Performance, the University Transportation Centers Program, the Surface Transportation Environmental Cooperative Research Program, a new Freight Transportation Cooperative Research Program, the Transit Cooperative Research Program, and the Local Technical Assistance Program.

Continue to Grow the Transit Program

The proposed legislation provides for substantial growth in the federal transit program while maintaining the existing program structure with significant increases for transit in non-urbanized areas.

The legislation will enhance mobility options by including provisions for new services, such as the establishment of the New Freedoms Initiative which provide additional transit services for the disabled, and new eligibility for Bus Rapid Transit.

Protecting the Program

States have great concerns about key principles that they believe should be reflected in the next federal highway and transit act.

Avoid Diversions

Erosion of the core highway programs diminishes the ability of states to respond to their needs. The only way to fund the core highway programs at the highest possible levels is to avoid diverting funds to other non-core categories.

AASHTO urges Congress to avoid diversions which would occur through disproportionate program increases, including, for example, the 150% increase that results from expanding the set aside for Metropolitan Planning Funds from 1% to 1.5% and the expanding the base to include a new takedown from the Minimum Guarantee Program.

AASHTO urges Congress to avoid diversions which would occur as a result of the creation of new categorical and discretionary programs, such as the Infrastructure Performance and Maintenance Program or the Freight Intermodal Connectors Program

Choose Incentives and Flexibility over New Mandates, Sanctions and Penalties

AASHTO believes incentives and flexibility are preferable for achieving national objectives. New mandates, sanctions and penalties merely redirect funds from highway construction projects designed to save lives and improve mobility and access. Incentives give states the flexibility and resources to find creative outcome-based solutions that meet national goals and fit state and local needs.

AASHTO urges elimination of sanctions such as for states failing to implement open container laws, mandates including new planning and consultation mandates, and penalties such as the loss of safety funds if a state does not have in place a Strategic Highway Safety Plan.

FOR MORE INFORMATION

**See AASHTO's
reauthorization website at
<http://www.transportation.org>**